

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
HAZARD EVALUATION AND EMERGENCY RESPONSE OFFICE

SFUND RECORDS CTR  
2056273

IN THE MATTER OF:

Oahu Sugar Company, Limited  
c/o Amfac/JMB Hawaii Inc.  
700 Bishop Street  
Honolulu, Hawaii 96813

RESPONDENT.

Order No. *CH98-001*

ADMINISTRATIVE ORDER FOR  
RESPONSE ACTION PROCEEDING  
UNDER CHAPTER 128D, HAWAII  
ENVIRONMENTAL RESPONSE LAW

**AUTHORITY**

1. General Authority. Section 128D-4 of the Hawaii Revised Statutes ("HRS"), Environmental Response Law ("ERL"), authorizes the Director of Health ("Director") to issue an administrative order to compel any known responsible party to take appropriate removal and remedial action necessary to protect public health and safety and the environment.
2. Section 128D-6(2), ERL, provides:

Any person who at the time of disposal of any hazardous substances owned or operated any facility at which such hazardous substances were disposed of ... shall be strictly liable for (A) all costs of removal or remedial actions incurred by the state or any other person; to the extent such costs and actions are consistent with this chapter, the state contingency plan, and any other state rules; (B) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such release; and (C) the costs of any health assessment or health effects study carried out consistent with this chapter, the state contingency plan, and any other state rules.

3. Section 128D-1, ERL, provides:

"Person" means any individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state, county, commission, political subdivision of the State, or, to the extent they are subject to this chapter, the United States or any interstate body.

### **STATEMENT OF FACTS**

1. At all times pertinent hereto, Oahu Sugar Company, Limited (OSC, the "RESPONDENT") was and is a corporation organized and existing under the laws of the State of Hawaii.
2. RESPONDENT operated a pesticide mixing and loading and seed cane dipping operation at the Waipio Peninsula Site ("the Site"), Waipio Peninsula, Hawaii, TMK No. 9-3-02:16.
3. On May 20, 1997, Department of Health ("Department") agents conducted surface soil sampling at the Site.
4. Surface soil sample results obtained by the Department indicate the presence of high concentrations of various dioxin congeners at the Site.
5. Herbicides including pentachlorophenol and 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T) were used at the Site.
6. Chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans ("dioxins") are known to be common contaminants generated during the manufacture of the aforementioned phenolic herbicides.

### **CONCLUSIONS OF LAW**

Based on the Statement of Facts set forth above, and the Administrative Record supporting this action and order, the Department has determined that:

1. Oahu Sugar Company, Limited, the RESPONDENT, is defined as an "Owner and/or Operator" under Section 128D-1, ERL.
2. The contaminants found at the Site include "hazardous substance(s)" as defined by Section 128D-1, ERL.
3. The conditions described in the Statement of Facts above constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 128D-1, ERL.
4. The effective date of this Order shall be the date of signature by the Deputy Director of Health.

### **DETERMINATION**

Based on the Findings of Fact and Conclusions of Law, the Deputy Director of the Hawaii State Department of Health, has made the following determinations:

1. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, the environment or natural resources within the meaning of Chapter 128D, ERL.
2. The site assessment and appropriate response action through this Order is necessary to protect the public health, welfare, the environment or natural resources and are not inconsistent with Chapter 128D, ERL.